

Court of Appeals, State of Michigan

ORDER

Mark A Chaban PC v Shirley Getsinger

Docket No. 282481

LC No. 07-709097-AV

Michael J. Talbot
Presiding Judge

Helene N. White

Brian K. Zahra
Judges

In lieu of granting the delayed application, the Court orders, pursuant to MCR 7.205(D)(2), that the November 1, 2007, order of the Wayne Circuit Court affirming the grant of sanctions to petitioner Chaban hereby is REVERSED. Where the probate court expressly found that the pleadings filed in the defense of petitioner's request for attorneys fees were not frivolous, it had no basis upon which to assess sanctions under MCR 2.114, MCR 2.625(A)(2) or MCL 600.2591. The plain language of the court rules and the statute does not provide for sanctions to be assessed against respondent Getsinger for the reasons described by the probate court on the record on January 24, 2006. Consequently, the Court VACATES the portions of the probate court's orders of March 6, 2006 and March 8, 2006, awarding sanctions.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 14 2008

Date

Sandra Schultz Mengel

Chief Clerk